



**TO:** Chief Elected Officials  
WIB Chairs  
Fiscal Agents  
WIB Directors  
DWD Program Directors

**FROM:** Ronald L. Stiver *RS*  
Commissioner

**DATE:** September 14, 2005

**SUBJECT:** DWD Policy: 2005-03  
Conflict of Interest in Establishment of Regional Workforce Boards  
and Regional Workforce Board's Procurement of Regional Operators

### **Purpose**

According to the Indiana Department of Workforce Development's WIA State Plan for July 1, 2005-June 30, 2007, Regional Workforce Boards (RWB) will be established and begin operating in eleven regional areas on July 1, 2006. This policy defines Conflict of Interest regarding the establishment of Indiana's Regional Workforce Boards and Regional Workforce Boards writing and issuing Requests for Proposal for procurement of Regional Operators.

### **Rescissions**

None

### **Definitions**

#### *1. Conflict of Interest*

Indiana Code 35-44-1-3, Conflict of Interest, states, "Sec. 3 (a) A public servant who knowingly or intentionally: (1) has a pecuniary interest in; or (2) derives a profit from; a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony."

A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of the public

servant or a dependent of the public servant who is under the direct or indirect administrative control of the public servant; or receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant. "Dependent" means any of the following: the spouse of a public servant; a child, stepchild, or adoptee of a public servant who is unemancipated and less than eighteen (18) years of age; and any individual more than one-half (1/2) of whose support is provided during a year by the public servant.

WIA Title I, Section 117(g) states that a member of a local board may not:

- (1) Vote on a matter under consideration by the local board -
  - (A) regarding the provision of services by such member (or by an entity that such member represents); or
  - (B) that would provide direct financial benefit to such member or the immediate family of such member; or
- (2) Engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State Plan.

## *2. Regional Workforce Board (RWB)*

Under Indiana's WIA State Plan for 2005 through 2007, a Regional Workforce Board is to set policy for the portion of the statewide investment system within the local area. The Regional Workforce Board will also oversee the one-stop system through evaluation of values and strategic direction, operational impacts, responsiveness to the community, and assessment of internal strength and weaknesses.

## *3. Chief Elected Official (CEO)*

WIA Title I, Section 101(6) defines Chief Elected Official (CEO) as:

- (A) The chief elected executive officer of a unit of general local government<sup>1</sup> in a local area; and
- (B) In a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in Section 117(c)(1)(B).

WIA Section 117 (c)(1)(B) states that in a case in which a local area includes more than one unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials.

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<sup>1</sup> A "unit of general local government" is defined in WIA Section 101 (48) as any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

The Indiana Department of Workforce Development (DWD) further defines the CEO as [§22-4.5-2-2.]:

“Chief Elected Official” means:

- (1) The executive of a second or third class city that:
  - (A) has a population of not less than five thousand (5,000);
  - (B) is located in a workforce investment area; and
  - (C) is the only city located in the workforce investment area that has a population of at least five thousand (5,000);
- (2) A member of the executive body of a county located in a workforce investment area, selected by the executive body of the county; or
- (3) If there is more than one chief elected official in the workforce investment area meeting the definition of subdivision (1) or (2), the elected official designated by an agreement between the cities and counties to carry out the responsibilities of the chief elected official under the Workforce Investment Act;

who is designated by an agreement between the cities and counties to carry out the responsibilities of the chief elected official under the Workforce Investment Act.

## **Content**

There is a conflict of interest if a current Workforce Investment Board Director or WIB Staff person is involved in the establishment of the new Regional Workforce Board. This will include advising local elected officials about possible nomination efforts for the establishment of a new board.

In addition, each RWB will be formulating the requirements of a Request for Proposal for a Regional Operator. A RWB may not hire as their Regional Operator anyone who has actively participated in the writing of that RFP for that area. This includes state employees, WIB Directors, WIB staff, or others who gave advice or helped formulate that RFP, nor a relative of someone who participated. State employees have a more privileged position in their role as advisor to the RWB.

A state employee may become an applicant for the Regional Operator position in another Regional Workforce Area where he/she did not take part directly/indirectly in the RFP formulation. No conflict of interest is apparent in this situation.

For a more detailed description of other conflict of interest policies for members of Workforce Investment Boards, please see DWD Policy 2004-19, Section 5.

Anyone taking part in a focus group where advice is garnered from the general public, would be acting as any other citizen in giving opinions about formulation of Requests for Proposal, and *are not* restricted from applying to be a Regional Operator.

**Effective Date**

Immediately

**Ending Date**

June 30, 2007

**Ownership**

DWD Partner Services

**Action**

Regional Workforce Boards shall observe this policy in the formulation of their Request for Proposal and in the hiring of their Regional Operator. If there are questions as to whether a conflict of interest exists, please contact the Indiana Department of Workforce Development as soon as possible.

No one, including state employees, may be hired as a Regional Operator of a Workforce Service Area where she/he has actively contributed to the RFP formulation or process.

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